

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA.

No. CR 12-00119 SI

Plaintiff.

**ORDER RE YOUTUBE VIDEOS
(Docket No. 994)**

v.

VICTOR FLORES, et al.,

Defendants.

Now before the Court is a motion to exclude certain YouTube rap videos, provided on a CD to the Court, from evidence at trial. As far as the Court is aware, the rap music in these videos was neither written nor performed by any of the four defendants currently on trial. The government contends that these videos “were made by other 500 Block/C Street Gang members and allude to the Gang’s activities.” Dkt. No. 1003 at 4. Thus, the government’s relevance theory is that the videos help to establish the existence of the charged conspiracy and enterprise.

The Court finds that these rap videos are not admissible against any of the four defendants. Even if the music was written and performed by other members of the conspiracy, these out-of-court statements were not made in furtherance of the conspiracy and they are therefore not admissible under Federal Rule of Evidence 801(d)(2)(E). Accordingly, the Court finds that the rap videos are hearsay for which no exception applies and therefore GRANTS the motion to exclude.

IT IS SO ORDERED.

Dated: June 27, 2014

Susan Illston
SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE